

# COUNTDOWN TO RENEWAL

**A Wuffle**

**Associate to Professor  
School of Social Sciences  
University of California, Irvine**

**With footnote annotations by  
Bernard Grofman  
Center for the Study of Democracy  
University of California, Irvine**

# 5

## The Number of the Section

**Five is the number of the Section to renew;  
five is also the minimal number of the justices  
whose agreement  
renewers must woo.**

# 4

## Key Issues for the Civil Rights Community to Resolve

First, just as Roy Rogers had his Trigger, so voting rights advocates must figure their own way to choose which jurisdictions, if any, to lose.

In my view, the new VRA should be not bigger and better, but smaller and keener.

Nine states are now covered in whole.

Let these states be the max.

At the state level, neither multiply, divide nor add, just subtract.<sup>[1]</sup>

Second, though the new Section 5 make leak like a sieve, still it must be decided whether easier bailout provisions to give.

# 4

## Key Issues for the Civil Rights Community to Resolve (cont.)

Third, *Georgia v. Ashcroft* Section 5 did completely redo, so we must decide if this decision Congress must now undo. There are arguments pro and there are arguments con, that make my poor head ache, [\[2\]](#) so little help can I offer on Georgia as to which road we should take. On the other hand, if discriminatory purpose, does not a Section 5 violation make, what could 5 possibly mean? So here, failing to reverse *Bossier II* makes Section 5 much too lean.

Fourth, and finally, shall the VRA be “updated” to deal with new issues like vote machine technology? My view on this is simple, VRA was intended for racial problems quite special, not every pathology.  
For problems like Florida, let’s give it to HAVA.

### 3

## Three is the number of empirical misconceptions by the Supreme Court we need to correct

The first is that racially polarized voting is something with which we no longer meet.

But alas, RBV is well, and lives on, in primaries and open seats.

The second misconception is that a legislator's party or color are of no account, once the number of minorities in the district we do precisely count.

Alas, 'tis false. Southern Republicans can win without black votes, and thus need pay minorities in their district no mind; and even among Democrats,

Epstein's and O'Halloran's (2006) review of floor votes notwithstanding, when we do analyses more demanding, difference by race of legislator we do still find.

Third, and relatedly, minority influence occurs at no number magic, to believe the contrary as does former Justice Sandra. is to invite outcomes quite tragic.[\[1\]](#)

And, as for minority electability, can there be minority electoral success under 50, may ask Stella Dallas?

But minority population enow to control the Democratic primary is as close as I can come to finding the holy chalice.

## There are 2 kinds of 2' s

The first twosome I spy is the two wings of each party whose views don' t agree.

Color blind Republicans and Southern Democratic who would like to say *non*;

Republican Machiavellian and minority Democrats who enthusiastically say *oui*.

For Republicans pragmatists (like Rove) holding the South forever Republican is the name of the game; for Southern Democrats, the Voting Rights Act is that which to blame.

The second twosome I will focus on is the two fists of fury: the 2 and the 5.

In the old days, together they kept minority voting rights alive.

Think of Section 2 and Section 5 as boxing' s one-two punch.

Section 2 to lay them out;

Section 5 to keep them permanently out to lunch.

Now  $2 + 5 = 7$ , and that' s a prime number,

and the year of an itch, but a 7 year renewal is also my pitch

-- long enough to put out 2010' s fires;

short enough not to raise fears of Supreme Court ire.

# 1

Finally, like Hamlet we must resolve doubt:  
Section 5 – to be or not to be. [1]

If Georgia v. Ashcroft remains the law of the land,  
are we faced with a Schiavoian choice  
between retaining Section 5  
more dead than alive,  
under *Georgia*'s standards murky,  
or letting it die now,  
before it becomes just a leftover turkey.

One perspective to bind us  
is to see renewal as a two-stage game  
—the strongest renewal that can get through Congress,  
yet one that the Supreme Court won't shoot down in flames. [2]

[1]. Wuffle grew up on Walter Farley's The Black Stallion. Farley kept writing sequels to his 1948 classic. Shortly before his death, Farley wrote the last in the series. In that one Alec, in his mid-20s who had been a jockey for a while, was suffering from advanced arthritis in his hands. Some sequels are best left unwritten.

[2] See Grofman (2006 forthcoming).

# 0

Zero is my toast to a Voting Rights Section now gone.

To paraphrase Villon:

*“Ou sont les D. O. J. d’antan?”*

Long gone are the Hebert, the Posner and such;  
but it’s the last year or so that’s the tale of true woe.

Gone Becker, gone Kengle,  
gone, too, are others of the best;

even Mighty Joe Rich<sup>[1]</sup> was forcibly put out to rest.<sup>[2]</sup>

So verily, the Voting Rights Section of yore

—platonic guardians to the core—

Quoth the Raven, alas is, no more.

In control firm of DOJ now we see,  
the Bush political appointee,

<sup>[1]</sup> Rich was Chief of the Voting Rights Section.

<sup>[2]</sup> They made him a retirement offer he couldn’t refuse.